

State of South Dakota

EIGHTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2014

761V0419

SENATE BILL NO. 95

Introduced by: Senators Vehle and Ewing and Representatives Verchio and Duvall

1 FOR AN ACT ENTITLED, An Act to revise certain vehicle dealer licensing provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-6B-5 be amended to read as follows:

4 32-6B-5. The following persons are exempt from the ~~provisions~~ licensing requirements of
5 this chapter:

6 (1) Any employee of any person licensed as a vehicle dealer if engaged in the specific
7 performance of the employee's duties;

8 (2) Any financial institution chartered or licensed in any other jurisdiction that acquires
9 vehicles as an incident to the financial institution's regular business and sells the
10 vehicles to dealers licensed under this chapter;

11 (3) Any nonprofit automobile club if selling automobiles twenty years old or older under
12 the provisions of chapter 32-3;

13 (4) Any person acting as an auctioneer if auctioning South Dakota titled vehicles for a
14 licensed dealer or a person who is exempt from the provisions of this chapter;

15 (5) Any person engaged in the business of manufacturing or converting new vehicles if



selling the vehicles to a licensed dealer holding a franchise from the original manufacturer of the vehicle;

(6) ~~Any person engaged in the business of manufacturing or customizing motor vehicles may display but may not sell any motor vehicle at an event, if the event lasts three or more days and if the person registers with and purchases a permit from the Department of Revenue. If purchased in advance of the event, the person shall pay a fee of two hundred fifty dollars for a ten-day temporary permit. However, if the permit is purchased at the event, the person shall pay a fee of five hundred dollars for the temporary permit. This subdivision does not apply to any customized motorcycle being built for and displayed during a sponsored event where the participants had to qualify through competition. A permit is required if any customized motorcycle is being displayed outside the sponsored event. Any person found to be in violation of the provisions contained in this subdivision shall be denied a temporary permit for a period of one year from the date of violation;~~

~~(7) Any person engaged in the business of manufacturing trailers may display but may not sell any trailers at an event, if the event lasts three or more days and if the person registers with and purchases a permit from the Department of Revenue. If purchased in advance of the event, the person shall pay a fee of two hundred fifty dollars for a ten-day temporary permit. However, if the permit is purchased at the event, the person shall pay a fee of five hundred dollars for the temporary permit. Any person found to be in violation of the provisions contained in this subdivision shall be denied a temporary permit for a period of one year from the date of violation;~~

~~(8) Any person may sell motorcycles at an event, if the event lasts three or more days and if the person registers and purchases a permit from the Department of Revenue.~~

1 ~~Before issuance of a permit, the applicant shall provide proof the applicant is a~~
2 ~~licensed dealer in the applicant's own state and has no outstanding dealer violations.~~
3 ~~The permit shall only be issued if the new motorcycles being sold are not franchised~~
4 ~~in this state. If purchased in advance of the event, the person shall pay a fee of two~~
5 ~~hundred fifty dollars for a ten-day temporary permit. However, if the permit is~~
6 ~~purchased at the event, the person shall pay a fee of five hundred dollars for the~~
7 ~~temporary permit. Any person found to be in violation of the provisions contained~~
8 ~~in this subdivision shall be denied a temporary permit for a period of one year from~~
9 ~~the date of violation;~~

10 ~~—(9)—Any person may sell trailers at an event, if the event lasts three or more days and if~~
11 ~~the person registers and purchases a permit from the Department of Revenue. Before~~
12 ~~issuance of a permit, the applicant shall provide proof the applicant is a licensed~~
13 ~~dealer in the applicant's own state and has no outstanding dealer violations. The~~
14 ~~permit will only be issued if the trailers being sold are not franchised in this state. If~~
15 ~~purchased in advance of the event, the person shall pay a fee of two hundred fifty~~
16 ~~dollars for a ten-day temporary permit. However, regardless of whether or not there~~
17 ~~is a franchise in this state, any person may display a trailer at such an event.~~
18 ~~However, if the permit is purchased at the event, the person shall pay a fee of five~~
19 ~~hundred dollars for the temporary permit. Any person found to be in violation of the~~
20 ~~provisions contained in this subdivision shall be denied a temporary permit for a~~
21 ~~period of one year from the date of violation;~~

22 ~~—(10)—Any person not engaged in the sale of vehicles as a business and is disposing of~~
23 ~~vehicles used solely for personal use if the vehicles were acquired and used in good~~
24 ~~faith and not for the purpose of avoiding the provisions of this chapter;~~

1 ~~(11)~~(7) Any person not engaged in the sale of vehicles as a business who operates
2 fleets of vehicles and is disposing of vehicles used in the person's business if
3 the same were acquired and used in good faith and not for the purpose of
4 avoiding the provisions of this chapter;

5 ~~(12)~~(8) Any person who sells less than five vehicles in a twelve-month period, unless
6 the person is licensed as a dealer in another state or holds himself or herself
7 out as being in the business of selling vehicles. However, if the vehicles are
8 travel trailers, any person who sells less than three travel trailers in a twelve-
9 month period;

10 ~~(13)~~(9) Any public officer while performing the officer's official duties;

11 ~~(14)~~(10) Any receiver, trustee, personal representative, guardian, or other person
12 appointed by or acting under the judgment or order of any court;

13 ~~(15)~~(11) Any regulated lenders as that term is defined in § 54-3-14, any insurance
14 company authorized to do business in this state, or any financing institution
15 as defined in and licensed pursuant to chapter 54-4 that acquires vehicles as
16 an incident to its regular business;

17 ~~(16)~~(12) Any towing agency that acquires and sells a vehicle which has been towed at
18 the request of a private landowner under the provision of chapter 32-36 or at
19 the request of a law enforcement officer, if no vehicle is sold for an amount
20 over two hundred dollars;

21 ~~(17)~~(13) Any vehicle rental and leasing company that sells its used vehicles to dealers
22 licensed under this chapter; and

23 ~~(18)~~(14) Any South Dakota nonprofit corporation which gives a donated motor vehicle
24 to a needy family or individual; ~~and~~

1 ~~(19) Any dealer licensed in another state may sell any vehicle or motorcycle that is not~~
2 ~~titled in South Dakota if the vehicle is at least twenty years old and the motorcycle~~
3 ~~is at least thirty years old at a public auction on consignment if the title is issued in~~
4 ~~the name of the dealer and the dealer purchases a permit from the Department of~~
5 ~~Revenue. Before issuance of a permit, the applicant shall provide proof the applicant~~
6 ~~is a licensed dealer in the applicant's own state and has no outstanding dealer~~
7 ~~violations. If purchased in advance of the auction, the dealer shall pay a fee of two~~
8 ~~hundred fifty dollars for the permit. However, if the permit is purchased at or after~~
9 ~~the auction, the dealer shall pay a fee of five hundred dollars for the temporary~~
10 ~~permit. Any dealer found to be in violation of the provisions contained in this~~
11 ~~subdivision shall be denied a temporary permit for a period of one year from the date~~
12 ~~of violation.~~

13 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The following persons do not need to be licensed pursuant to this chapter if the person meets
16 the following conditions:

17 (1) Any person engaged in the business of manufacturing trailers may display but may
18 not sell any trailers at an event, if the event lasts three or more days and if the person
19 registers with and purchases a permit from the Department of Revenue. If purchased
20 in advance of the event, the person shall pay a fee of two hundred fifty dollars for a
21 ten-day temporary permit. However, if the permit is purchased at the event, the
22 person shall pay a fee of five hundred dollars for the temporary permit. Any person
23 found to be in violation of the provisions of this subdivision shall be denied a
24 temporary permit for a period of one year from the date of violation;

1 (2) Any person may sell motorcycles at an event, if the event lasts three or more days and
2 if the person registers and purchases a permit from the Department of Revenue.
3 Before issuance of a permit, the person shall provide proof the person is a licensed
4 dealer in the person's own state and has no outstanding dealer violations. The permit
5 may only be issued if the new motorcycles being sold are not franchised in this state.
6 If purchased in advance of the event, the person shall pay a fee of two hundred fifty
7 dollars for a ten-day temporary permit. However, if the permit is purchased at the
8 event, the person shall pay a fee of five hundred dollars for the temporary permit.
9 Any person found to be in violation of the provisions of this subdivision shall be
10 denied a temporary permit for a period of one year from the date of violation;

11 (3) Any person may sell trailers at an event, if the event lasts three or more days and if
12 the person registers and purchases a permit from the Department of Revenue. Before
13 issuance of a permit, the person shall provide proof the person is a licensed dealer in
14 the person's own state and has no outstanding dealer violations. The permit may only
15 be issued if the trailers being sold are not franchised in this state. If purchased in
16 advance of the event, the person shall pay a fee of two hundred fifty dollars for a ten-
17 day temporary permit. However, regardless of whether or not there is a franchise in
18 this state, any person may display a trailer at such an event. However, if the permit
19 is purchased at the event, the person shall pay a fee of five hundred dollars for the
20 temporary permit. Any person found to be in violation of the provisions of this
21 subdivision shall be denied a temporary permit for a period of one year from the date
22 of violation;

23 (4) Any dealer licensed in another state may sell any vehicle or motorcycle that is not
24 titled in South Dakota if the vehicle is at least twenty years old and the motorcycle

1 is at least thirty years old at a public auction on consignment if the title is issued in
2 the name of the dealer and the dealer purchases a permit from the Department of
3 Revenue. Before issuance of a permit, the dealer shall provide proof the dealer is a
4 licensed dealer in the dealer's own state and has no outstanding dealer violations. If
5 purchased in advance of the auction, the dealer shall pay a fee of two hundred fifty
6 dollars for the permit. However, if the permit is purchased at or after the auction, the
7 dealer shall pay a fee of five hundred dollars for the temporary permit. Any dealer
8 found to be in violation of the provisions of this subdivision shall be denied a
9 temporary permit for a period of one year from the date of violation; and

10 (5) Any person engaged in the business of manufacturing or customizing motor vehicles
11 may display but may not sell any motor vehicle at an event, if the event lasts three or
12 more days and if the person registers with and purchases a permit from the
13 Department of Revenue. If purchased in advance of the event, the person shall pay
14 a fee of two hundred fifty dollars for a ten-day temporary permit. However, if the
15 permit is purchased at the event, the person shall pay a fee of five hundred dollars for
16 the temporary permit. This subdivision does not apply to any customized motorcycle
17 being built for and displayed during a sponsored event where the participants had to
18 qualify through competition. A permit is required if any customized motorcycle is
19 being displayed outside the sponsored event. Any person found to be in violation of
20 the provisions of this subdivision shall be denied a temporary permit for a period of
21 one year from the date of violation.

22 Section 3. That § 32-6B-3.4 be amended to read as follows:

23 32-6B-3.4. Notwithstanding the provisions of subdivision 32-6B-5(4), any titled vehicle,
24 including a vehicle owned by a vehicle dealer who has obtained a permit under the provisions

1 of ~~§ 32-6B-5~~ section 2 of this Act but who is licensed in another state, except a motorcycle,
2 which is not titled in South Dakota and which is at least twenty years old may be sold at a public
3 auction on consignment if the title of the vehicle is issued in the name of the seller. All other
4 provisions of this chapter pertaining to consignment sales or public auctions need to be met.

5 Section 4. That § 32-6B-3.5 be amended to read as follows:

6 32-6B-3.5. Notwithstanding the provisions of subdivision 32-6B-5(4), any motorcycle,
7 including a motorcycle owned by a dealer who has obtained a permit under the provisions of
8 ~~§ 32-6B-5~~ section 2 of this Act but who is licensed in another state, which is not titled in South
9 Dakota and which is at least thirty years old may be sold at a public auction on consignment if
10 the title of the vehicle is issued in the name of the seller. All other provisions of this chapter
11 pertaining to consignment sales or public auction need to be met.